

Senate Bill 188

By: Senators Walker III of the 20th, Jones of the 25th, Martin of the 9th, Kirk of the 13th and Harbin of the 16th

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Code Section 33-7-14 of the Official Code of Georgia Annotated, relating to  
2 reinsurance of risks, so as to provide adequate regulation of reinsurers; to provide for the  
3 incorporation of the National Association of Insurance Commissioners reinsurance model  
4 law into the Georgia Insurance Code; to provide domestic ceding insurers credit as either an  
5 asset or a deduction in liability on account of reinsurance purchased only when the purchase  
6 meets new requirements; to provide for related matters; to repeal conflicting laws; and for  
7 other purposes.

8                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9                   **SECTION 1.**

10 Code Section 33-7-14 of the Official Code of Georgia Annotated, relating to reinsurance of  
11 risks, is amended as follows:  
12         "(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or  
13 a deduction from liability on account of reinsurance ceded only when the reinsurer meets  
14 the requirements of paragraph (1), (2), (3), (4), (5), or (6), or (6.1) of this subsection, and  
15 the Commissioner may adopt by regulation pursuant to subsection (d) of this Code section  
16 specific additional requirements relating to or setting forth: (i) the valuation of assets or  
17 reserve credits; (ii) the amount and forms of security supporting reinsurance arrangements  
18 described in subsection (d) of this Code section; and (iii) the circumstances pursuant to  
19 which credit will be reduced or eliminated. Credit shall be allowed under paragraph (1),  
20 (2), or (3) of this subsection only with respect to cessions of those kinds of classes of  
21 business for which the assuming insurer is licensed or otherwise permitted to write or  
22 assume in its state of domicile, or in the case of a United States branch of an alien assuming  
23 insurer, in the state through which it is entered and licensed to transact insurance or  
24 reinsurance. If meeting the requirements of paragraph (3) or (4) of this subsection, the  
25 requirements of paragraph (7) of this subsection shall also be met:

- 26       (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
27       is licensed to transact insurance or reinsurance in this state;
- 28       (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
29       is accredited as a reinsurer by the Commissioner in this state. In order to be eligible for  
30       accreditation, a reinsurer shall:
- 31           (A) File with the Commissioner evidence of its submission to this state's jurisdiction;  
32           (B) Submit to this state's authority to examine its books and records;  
33           (C) Be licensed to transact insurance or reinsurance in at least one state, or in the case  
34       of a United States branch of an alien assuming insurer, be entered through and licensed  
35       to transact insurance or reinsurance in at least one state;  
36           (D) File annually with the Commissioner a copy of its annual statement filed with the  
37       insurance department of its state of domicile and a copy of its most recent audited  
38       financial statement; and  
39           (E) Demonstrate to the satisfaction of the Commissioner that it has adequate financial  
40       capacity to meet its reinsurance obligations and is otherwise qualified to assume  
41       reinsurance from domestic insurers. An assuming insurer is deemed to meet this  
42       requirement as of the time of its application if it maintains a surplus as regards  
43       policyholders in an amount of not less than \$20 million and its accreditation has not  
44       been denied by the Commissioner within 90 days after the submission of its application;
- 45       (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which  
46       is domiciled and licensed in, or, in the case of a United States branch of an alien  
47       assuming insurer, is entered through a state which employs standards regarding credit for  
48       reinsurance substantially similar to those applicable under this Code section and the  
49       assuming insurer or United States branch of an alien assuming insurer:
- 50           (A) Maintains a surplus with regard to policyholders in an amount not less than \$20  
51       million; and  
52           (B) Submits to the authority of this state to examine its books and records.
- 53       Subparagraph (A) of this paragraph shall not apply to reinsurance ceded and assumed  
54       pursuant to pooling arrangements among insurers in the same holding company system;
- 55       (4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
56       which maintains a trust fund in a qualified United States financial institution, as defined  
57       in subsection (c) of this Code section, for the payment of the valid claims of its United  
58       States ceding insurers, their assigns, and successors in interest. The assuming insurer  
59       shall report annually to the Commissioner information substantially the same as that  
60       required to be reported on the National Association of Insurance Commissioners  
61       Annual Statement form by licensed insurers to enable the Commissioner to determine  
62       the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall

consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million; provided, however, that, at any time after the assuming insurer has permanently discontinued underwriting new business secured by trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction of the required trustee surplus, but only after a finding, based upon an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account in an amount not less than the respective underwriters' liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group for all years of account; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator or, if a certification is unavailable, financial statements prepared by independent public accountants of each member of the group.

(B) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subparagraph (A) of this paragraph and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10 billion; the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by the United States ceding insurers to any member of the group pursuant to

reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and financial statements prepared by its independent public accountant.

(C) Credit for reinsurance shall not be granted under this paragraph unless the form of the trust and any amendments to the trust have been approved by the commissioner of the state where the trust is domiciled or the commissioner of another state, who, pursuant to the terms of the trust agreement, has accepted principal regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner. The trust must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(D) No later than February 28 of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments as of the end of the preceding year and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31;

(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (1), (2), (3), or (4) of this subsection if such assuming insurer has been certified by the Commissioner as a reinsurer in this state and secures its obligations in accordance with the requirements of this subsection.

(A) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(i) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant to subparagraph (C) of this paragraph;

- 135       (ii) The assuming insurer shall maintain minimum capital and surplus, or its  
136       equivalent, in an amount to be determined by the Commissioner pursuant to  
137       regulation;
- 138       (iii) The assuming insurer shall maintain financial strength ratings from two or more  
139       rating agencies deemed acceptable by the Commissioner pursuant to regulation;
- 140       (iv) The assuming insurer shall agree to submit to the jurisdiction of this state,  
141       appoint the Commissioner as its agent for service of process in this state, and agree  
142       to provide security for 100 percent of the assuming insurer's liabilities attributable to  
143       reinsurance ceded by United States ceding insurers if it resists enforcement of a final  
144       United States judgment;
- 145       (v) The assuming insurer shall agree to meet applicable information filing  
146       requirements as determined by the Commissioner, both with respect to an initial  
147       application for certification and on an ongoing basis; and
- 148       (vi) The assuming insurer shall satisfy any other requirements for certification  
149       deemed relevant by the Commissioner.

150       (B) An association including incorporated and individual unincorporated underwriters  
151       may be a certified reinsurer. In order to be eligible for certification, in addition to  
152       satisfying requirements of subparagraph (A) of this paragraph:

- 153           (i) The association shall satisfy its minimum capital and surplus requirements through  
154           the capital and surplus equivalents, net of liabilities, of the association and its  
155           members, which shall include a joint central fund that may be applied to any  
156           unsatisfied obligation of the association of any of its members, in an amount  
157           determined by the Commissioner to provide adequate protection;
- 158           (ii) The incorporated members of the association shall not be engaged in any business  
159           other than underwriting as a member of the association and shall be subject to the  
160           same level of regulation and solvency control by the association's domiciliary  
161           regulator as are the unincorporated members; and
- 162           (iii) Within 90 days after its financial statements are due to be filed with the  
163           association's domiciliary regulator, the association shall provide to the Commissioner  
164           an annual certification by the association's domiciliary regulator of the solvency of  
165           each underwriter member; or if a certification is unavailable, financial statements,  
166           prepared by independent public accountants, of each underwriter member of the  
167           association.

168       (C) The Commissioner shall create and publish a list of qualified jurisdictions under  
169       which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be  
170       considered for certification by the Commissioner as a certified reinsurer.

171       (i) In order to determine whether the domiciliary jurisdiction of a non-United States  
172 assuming insurer is eligible to be recognized as a qualified jurisdiction, the  
173 Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance  
174 supervisory system of the jurisdiction, both initially and on an ongoing basis, and  
175 consider the rights, benefits, and the extent of reciprocal recognition afforded by the  
176 non-United States jurisdiction to reinsurers licensed and domiciled in the United  
177 States. A qualified jurisdiction shall agree to share information and cooperate with  
178 the Commissioner with respect to all certified reinsurers domiciled within that  
179 jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the  
180 Commissioner has determined that the jurisdiction does not adequately and promptly  
181 enforce final United States judgments and arbitration awards. Additional factors may  
182 be considered in the discretion of the Commissioner.

183       (ii) A list of qualified jurisdictions shall be published through the National  
184 Association of Insurance Commissioners (NAIC) Committee Process. The  
185 Commissioner shall consider this list in determining qualified jurisdictions. If the  
186 Commissioner approves a jurisdiction as qualified that does not appear on the list of  
187 qualified jurisdictions, the Commissioner shall provide thoroughly documented  
188 justification in accordance with criteria to be developed under regulations.

189       (iii) United States jurisdictions that meet the requirement for accreditation under the  
190 NAIC financial standards and accreditation program shall be recognized as qualified  
191 jurisdictions.

192       (iv) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified  
193 jurisdiction, the Commissioner has the discretion to suspend the reinsurer's  
194 certification indefinitely, in lieu of revocation.

195       (D) The Commissioner shall assign a rating to each certified reinsurer, giving due  
196 consideration to the financial strength ratings that have been assigned by rating  
197 agencies deemed acceptable to the Commissioner pursuant to regulation. The  
198 Commissioner shall publish a list of all certified reinsurers and their ratings.

199       (E) A certified reinsurer shall secure obligations assumed from United States ceding  
200 insurers under this subparagraph at a level consistent with its rating, as specified in  
201 regulations promulgated by the Commissioner.

202       (i) In order for a domestic ceding insurer to qualify for full financial statement credit  
203 for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain  
204 security in a form acceptable to the Commissioner and consistent with the provisions  
205 of subsection (b) of this Code section, or in a multibeneficiary trust in accordance  
206 with paragraph (4) of this subsection, except as otherwise provided in this paragraph.

207       (ii) If a certified reinsurer maintains a trust to fully secure its obligations subject to  
208       paragraph (4) of this subsection, and chooses to secure its obligations incurred as a  
209       certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall  
210       maintain separate trust accounts for its obligations incurred under reinsurance  
211       agreements issued or renewed as a certified reinsurer with reduced security as  
212       permitted by this subsection or comparable laws of other United States jurisdictions  
213       and for its obligations subject to paragraph (4) of this subsection. It shall be a  
214       condition to the grant of certification under this paragraph that the certified reinsurer  
215       shall have bound itself, by the language of the trust and agreement with the  
216       commissioner with principal regulatory oversight of each such trust account, to fund,  
217       upon termination of any such trust account, out of the remaining surplus of such trust  
218       any deficiency of any other such trust account.

219       (iii) The minimum trustee surplus requirements provided in paragraph (4) of this  
220       subsection are not applicable with respect to a multibeneficiary trust maintained by  
221       a certified reinsurer for the purpose of securing obligations incurred under this  
222       subsection, except that such trust shall maintain a minimum trustee surplus of \$10  
223       million.

224       (iv) With respect to obligations incurred by a certified reinsurer under this  
225       subparagraph, if the security is insufficient, the Commissioner shall reduce the  
226       allowable credit by an amount proportionate to the deficiency, and shall have the  
227       discretion to impose further reductions in allowable credit upon finding that there is  
228       a material risk that the certified reinsurer's obligations will not be paid in full when  
229       due.

230       (v) For purposes of this subparagraph, a certified reinsurer whose certification has  
231       been terminated for any reason shall be treated as a certified reinsurer required to  
232       secure 100 percent of its obligations:

233           (I) As used in this subparagraph, the term 'terminated' refers to revocation,  
234           suspension, voluntary surrender, and inactive status.

235           (II) If the Commissioner continues to assign a higher rating as permitted by other  
236           provisions of this paragraph, this requirement shall not apply to a certified reinsurer  
237           in inactive status or to a reinsurer whose certification has been suspended.

238       (F) If an applicant for certification has been certified as a reinsurer in an NAIC  
239       accredited jurisdiction, the Commissioner shall have the discretion to defer to that  
240       jurisdiction's certification, and shall have the discretion to defer to the rating assigned  
241       by that jurisdiction, and such assuming insurer shall be considered to be a certified  
242       reinsurer in this state.

243 (G) A certified reinsurer that ceases to assume new business in this state may request  
244 to maintain its certification in inactive status in order to continue to qualify for a  
245 reduction in security for its in-force business. An inactive certified reinsurer shall  
246 continue to comply with all applicable requirements of this paragraph, and the  
247 Commissioner shall assign a rating that takes into account, if relevant, the reasons why  
248 the reinsurer is not assuming new business;

249 (6) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not  
250 meeting the requirements of paragraph (1), (2), (3), (4), or (5) of this subsection, but only  
251 as to the insurance of risks located in jurisdictions where the reinsurance is required by  
252 applicable law or regulation of that jurisdiction;

253 (6.1)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer  
254 meeting each of the conditions set forth below:

255 (i) The assuming insurer must have its head office or be domiciled in, as applicable,  
256 and be licensed in a jurisdiction that has been recognized as a reciprocal jurisdiction  
257 by the Commissioner pursuant to subparagraph (B) of this paragraph. The term  
258 'reciprocal jurisdiction' means a jurisdiction that meets one of the following:

259 (I) A non-United States jurisdiction that has entered into an international  
260 reinsurance agreement with the United States, each within its legal authority, or, in  
261 the case of an international reinsurance agreement between the United States and  
262 European Union, is a member state of the European Union, and has been determined  
263 by the Commissioner to be in compliance with all material terms of the agreement,  
264 including the reciprocal treatment of United States insurers and reinsurers. For  
265 purposes of this subdivision, the term 'international reinsurance agreement' means  
266 a treaty or international agreement, including an agreement entered into pursuant to  
267 the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C.  
268 Sections 313 and 314, that is currently in effect or in a period of provisional  
269 application and entitles certain reinsurers with a domicile or head office in a party  
270 state or a party's member state to assume reinsurance from United States ceding  
271 insurers; or

272 (II) A qualified jurisdiction, as determined by the Commissioner pursuant to  
273 subparagraph (C) of paragraph (5) of this subsection, which is not also a party to an  
274 international reinsurance agreement referred to in subdivision (I) of this division,  
275 or in the case that the European Union is a party to such international reinsurance  
276 agreement, is a member state thereof and which meets certain additional  
277 requirements as specified by the Commissioner in regulation;

278 (ii) The assuming insurer must have and maintain on an ongoing basis minimum  
279 capital and surplus, or its equivalent, calculated according to the methodology of its

280 domiciliary jurisdiction, in an amount to be set forth in regulation. If the assuming  
281 insurer is an association, including incorporated and individual unincorporated  
282 underwriters, it must have and maintain on an ongoing basis minimum capital and  
283 surplus equivalents, net of liabilities, calculated according to the methodology  
284 applicable in its domiciliary jurisdiction, and a central fund containing a balance in  
285 amounts to be set forth in regulation:

286 (iii) The assuming insurer must have and maintain on an ongoing basis a minimum  
287 solvency or capital ratio, as applicable, which will be set forth in regulation. If the  
288 assuming insurer is an association, including incorporated and individual  
289 unincorporated underwriters, it must have and maintain on an ongoing basis a  
290 minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming  
291 insurer has its head office or is domiciled, as applicable, and is also licensed;

292 (iv) The assuming insurer must agree and provide adequate assurance to the  
293 Commissioner, in a form specified by the Commissioner pursuant to regulation, as  
294 follows:

295 (I) The assuming insurer must provide prompt written notice and explanation to the  
296 Commissioner if it falls below the minimum requirements set forth in division (ii)  
297 or (iii) of this subparagraph, or if any regulatory action is taken against it for serious  
298 noncompliance with applicable law;

299 (II) The assuming insurer must consent in writing to the jurisdiction of the courts  
300 of this state and to the appointment of the Commissioner as agent for service of  
301 process. Either by law, regulation, or request of the Commissioner, such consent  
302 shall be included in each reinsurance agreement. Nothing in this provision shall  
303 limit or in any way alter the capacity of parties to a reinsurance agreement to agree  
304 to alternative dispute resolution mechanisms, except to the extent such agreements  
305 are unenforceable under applicable insolvency or delinquency laws;

306 (III) The assuming insurer must consent in writing to pay all final judgments,  
307 wherever enforcement is sought, obtained by a ceding insurer or its legal successor,  
308 that have been declared enforceable in the jurisdiction where the judgment was  
309 obtained;

310 (IV) Each reinsurance agreement must include a provision requiring the assuming  
311 insurer to provide security in an amount equal to 100 percent of the assuming  
312 insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the  
313 assuming insurer resists enforcement of a final judgment that is enforceable under  
314 the law of the jurisdiction in which it was obtained or a properly enforceable  
315 arbitration award, whether obtained by the ceding insurer or by its legal successor  
316 on behalf of its resolution estate; and

317       (V) The assuming insurer must confirm that it is not presently participating in any  
318       solvent scheme of arrangement which involves this state's ceding insurers, and  
319       agrees to notify the ceding insurer and the Commissioner and to provide security in  
320       an amount equal to 100 percent of the assuming insurer's liabilities to the ceding  
321       insurer should the assuming insurer enter into such a solvent scheme of  
322       arrangement. Such security shall be in a form consistent with the provisions of  
323       subparagraph (C) of paragraph (5) of this subsection or subsection (b) of this Code  
324       section and as specified by the Commissioner in regulation;

325       (v) The assuming insurer or its legal successor must provide, on behalf of itself and  
326       any legal predecessors, certain documentation to the Commissioner as specified by  
327       the Commissioner in regulation;

328       (vi) The assuming insurer must maintain a practice of prompt payment of claims  
329       under reinsurance agreements, pursuant to criteria set forth in regulation;

330       (vii) The assuming insurer's supervisory authority must confirm to the Commissioner  
331       on an annual basis, as of the preceding December 31 or at the annual date otherwise  
332       statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies  
333       with the requirements set forth in divisions (ii) and (iii) of this subparagraph; and

334       (viii) The assuming insurer must satisfy any other requirements deemed relevant by  
335       the Commissioner. To the extent that information or agreement is not required by an  
336       international reinsurance agreement referred to in subdivision (I) of division (i) of this  
337       subparagraph the failure to satisfy such other requirements will not alter the ability  
338       of the ceding insurer to take credit for such reinsurance. Nothing in this provision  
339       precludes an assuming insurer from providing the Commissioner with information on  
340       a voluntary basis.

341       (B)(i) The Commissioner shall timely create and publish a list of reciprocal  
342       jurisdictions.

343       (ii) A list of reciprocal jurisdictions shall be published through the NAIC committee  
344       process. The Commissioner shall consider this list in determining reciprocal  
345       jurisdictions, and the Commissioner has the discretion to defer to this list. The  
346       Commissioner may approve a jurisdiction that does not appear on the list of reciprocal  
347       jurisdictions in accordance with criteria to be developed under regulations issued by  
348       the Commissioner.

349       (iii) The Commissioner may remove a jurisdiction from the list of reciprocal  
350       jurisdictions upon a determination that the jurisdiction no longer meets the  
351       requirements of a reciprocal jurisdiction in accordance with a process set forth in  
352       regulations issued by the Commissioner. Upon removal of a reciprocal jurisdiction  
353       from this list, credit for reinsurance ceded to an assuming insurer which has its home

354 office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed  
355 pursuant to this Code section.

356 (C) The Commissioner shall timely create and publish a list of assuming insurers that  
357 have satisfied the conditions set forth in this subsection and to which cessions shall be  
358 granted credit in accordance with this subsection. The Commissioner may add an  
359 assuming insurer to such list if an NAIC accredited jurisdiction has added such  
360 assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the  
361 assuming insurer submits the information to the Commissioner as required under  
362 division (iv) of subparagraph (A) of this paragraph and complies with any additional  
363 requirements that the Commissioner may impose by regulation.

364 (D)(i) If the Commissioner determines that an assuming insurer no longer meets one  
365 or more of the requirements under this subsection, the Commissioner may revoke or  
366 suspend the eligibility of the assuming insurer for recognition under this subsection  
367 in accordance with procedures set forth in regulation.

368 (ii) While an assuming insurer's eligibility is suspended, no reinsurance agreement  
369 issued, amended, or renewed after the effective date of the suspension qualifies for  
370 credit except to the extent that the assuming insurer's obligations under the contract  
371 are secured in accordance with subparagraph (C) of this paragraph.

372 (iii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be  
373 granted after the effective date of the revocation with respect to any reinsurance  
374 agreements entered into by the assuming insurer, including reinsurance agreements  
375 entered into prior to the date of revocation, except to the extent that the assuming  
376 insurer's obligations under the contract are secured in a form acceptable to the  
377 Commissioner and consistent with the provisions of subparagraph (C) of this  
378 paragraph.

379 (E) Upon the entry of an order of rehabilitation, liquidation, or conservation against the  
380 ceding insurer, the supervising court shall require an assuming insurer under this  
381 subsection to post 100 percent security for the benefit of the ceding insurer or its estate.

382 (F) Nothing in this paragraph shall limit or in any way alter the capacity of parties to  
383 a reinsurance agreement to agree on requirements for security or other terms in that  
384 reinsurance agreement consistent herewith.

385 (G) Credit under this paragraph may be taken only for reinsurance agreements entered  
386 into, renewed, or amended on or after the date the Commissioner has determined that  
387 the assuming insurer is eligible for credit, and may not be taken for reinsurance of  
388 losses incurred or reserves reported before that date. This subsection shall not apply  
389 to reinsurance agreements entered into before this subsection's application, or to losses  
390 incurred or to reserves posted before this subsection's application.

391     (7) If the assuming insurer is not licensed, accredited, or certified to transact insurance  
392     or reinsurance in this state, the credit permitted by paragraphs (3) and (4) of this  
393     subsection shall not be allowed unless the assuming insurer agrees in the reinsurance  
394     agreements:

395         (A) That, in the event of the failure of the assuming insurer to perform its obligations  
396         under the terms of the reinsurance agreement, the assuming insurer, at the request of the  
397         ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in  
398         any state of the United States, shall comply with all requirements necessary to give the  
399         court jurisdiction, and shall abide by the final decision of the court or of any appellate  
400         court in the event of an appeal; and

401         (B) To designate the Commissioner or a designated attorney as its true and lawful  
402         attorney upon whom may be served any lawful process in any action, suit, or  
403         proceeding instituted by or on behalf of the ceding insurer.

404     This paragraph is not intended to conflict with or override the obligation of the parties to  
405     a reinsurance agreement to arbitrate their disputes, if this obligation is created in the  
406     agreement;

407     (8) If the assuming insurer does not meet the requirements of paragraph (1), (2), or (3)  
408     of this subsection, the credit permitted by paragraph (4) or (6) of this subsection shall not  
409     be allowed unless the assuming insurer agrees in the trust agreements to the following  
410     conditions:

411         (A) Notwithstanding any other provisions in the trust instrument, if the trust fund is  
412         inadequate because it contains an amount less than the amount required by  
413         subparagraphs (A) and (B) of paragraph (4) of this subsection, as applicable, or if the  
414         grantor of the trust has been declared insolvent or placed into receivership,  
415         rehabilitation, liquidation, or similar proceedings under the laws of its state or country  
416         of domicile, the trustee shall comply with an order of the commissioner with regulatory  
417         oversight over the trust or with an order of a court of competent jurisdiction directing  
418         the trustee to transfer to the commissioner with regulatory oversight all of the assets of  
419         the trust fund;

420         (B) The assets shall be distributed by and claims shall be filed with and valued by the  
421         commissioner with regulatory oversight in accordance with the laws of the state in  
422         which the trust is domiciled that are applicable to the liquidation of domestic insurance  
423         companies;

424         (C) If the commissioner with regulatory oversight determines that the assets of the trust  
425         fund or any part thereof are not necessary to satisfy the claims of the United States  
426         ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by

427 the commissioner with regulatory oversight to the trustee for distribution in accordance  
428 with the trust agreement; and

429 (D) The grantor shall waive any right otherwise available to it under United States law  
430 that is inconsistent with this provision.

431 (9) If an accredited or certified reinsurer ceases to meet the requirements for  
432 accreditation or certification, the Commissioner may suspend or revoke the reinsurer's  
433 accreditation or certification.

434 (A) The Commissioner shall give the reinsurer notice and opportunity for hearing. The  
435 suspension or revocation shall not take effect until after the Commissioner's order on  
436 hearing, unless:

437 (i) The reinsurer waives its right to hearing;

438 (ii) The Commissioner's order is based on regulatory action by the reinsurer's  
439 domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's  
440 eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction  
441 or in the primary certifying state of the reinsurer under subparagraph (F) of  
442 paragraph (5) of this subsection; or

443 (iii) The Commissioner finds that an emergency requires immediate action and a  
444 court of competent jurisdiction has not stayed the Commissioner's action.

445 (B) While a reinsurer's accreditation or certification is suspended, no reinsurance  
446 contract issued or renewed after the effective date of the suspension qualifies for credit  
447 except to the extent that the reinsurer's obligations under the contract are secured in  
448 accordance with subsection (b) of this Code section. If a reinsurer's accreditation or  
449 certification is revoked, no credit for reinsurance may be granted after the effective date  
450 of the revocation except to the extent that the reinsurer's obligations under the contract  
451 are secured in accordance with subparagraph (E) of paragraph (5) of this subsection or  
452 subsection (b) of this Code section.

453 (10) Concentration Risk:

454 (A) A ceding insurer shall take steps to manage its reinsurance recoverable  
455 proportionate to its own book of business. A domestic ceding insurer shall notify the  
456 Commissioner within 30 days after reinsurance recoverables from any single assuming  
457 insurers, or group of affiliated assuming insurers, exceeds 50 percent of the domestic  
458 ceding insurer's last reported surplus to policyholders, or after it is determined that  
459 reinsurance recoverables from any single assuming insurer, or group of affiliated  
460 assuming insurers, is likely to exceed this limit. The notification shall demonstrate that  
461 the exposure is safely managed by the domestic ceding insurer.

462 (B) A ceding insurer shall take steps to diversify its reinsurance program. A domestic  
463 ceding insurer shall notify the Commissioner within 30 days after ceding to any single

464 assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the  
465 ceding insurer's gross written premium in the prior calendar year, or after it has  
466 determined that the reinsurance ceded to any single assuming insurer, or group of  
467 affiliated assuming insurers, is likely to exceed this limit. The notification shall  
468 demonstrate that the exposure is safely managed by the domestic ceding insurer.

469 (b) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer  
470 to an assuming insurer not meeting the requirements of subsection (a) of this Code section  
471 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer,  
472 and the Commissioner may adopt by regulation pursuant to subsection (d) of this Code  
473 section specific additional requirements relating to or setting forth: (i) the valuation of  
474 assets or reserve credits; (ii) the amount and forms of security supporting reinsurance  
475 arrangements described in subsection (d) of this Code section; and (iii) the circumstances  
476 pursuant to which credit will be reduced or eliminated. Such and such reduction shall be  
477 in the amount of funds held by or on behalf of the ceding insurer, including funds held in  
478 trust for the ceding insurer, under a reinsurance contract with such assuming insurer as  
479 security for the payment of obligations thereunder, if such security is held in the United  
480 States subject to withdrawal solely by, and under the exclusive control of, the ceding  
481 insurer; or, in the case of a trust, held in a qualified United States financial institution, as  
482 defined in paragraph (2) of subsection (c) of this Code section. This security may be in the  
483 form of:

- 484 (1) Cash;
  - 485 (2) Securities listed by the Securities Valuation Office of the National Association of  
486 Insurance Commissioners, including those deemed exempt from filing as defined by the  
487 Purposes and Procedures Manual of the Securities Validation Office, and qualifying as  
488 admitted assets;
  - 489 (3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified  
490 United States institution, as defined in paragraph (1) of subsection (c) of this Code  
491 section, no later than December 31 of the year for which filing is being made, and in the  
492 possession of, or in the trust for, the ceding insurer on or before the filing date of its  
493 annual statement. Letters of credit meeting applicable standards of issuer acceptability  
494 as of the dates of their issuance or confirmation shall, notwithstanding the issuing or  
495 confirming institution's subsequent failure to meet applicable standards of issuer  
496 acceptability, continue to be acceptable as security until their expiration, extension,  
497 renewal, modification, or amendment, whichever first occurs; or
  - 498 (4) Any other form of security acceptable to the Commissioner.
- 499 (c)(1) For purposes of paragraph (3) of subsection (b) of this Code section, the term  
500 'qualified United States financial institution' means an institution that:

(A) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(B) Is regulated, supervised, and examined by the United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(2) ~~A~~ The term 'qualified United States financial institution' means, for the purposes of those provisions of this Code section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(A) Is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(B) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(d)(1) The Commissioner may adopt rules and regulations implementing the provisions of this Code section.

(2)(A) The Commissioner is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in subparagraph (B) of this paragraph.

(B) A regulation adopted pursuant to this subparagraph may apply only to reinsurance relating to:

(i) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(ii) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(iii) Variable annuities with guaranteed death or living benefits;

(iv) Long-term care insurance policies; or

(v) Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(C) A regulation adopted pursuant to division (i) or (ii) of subparagraph (B) of this paragraph may apply to any treaty containing (i) policies issued on or after January 1, 2015, or (ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

537       (3) A regulation adopted pursuant to this paragraph may require the ceding insurer, in  
538       calculating the amounts or forms of security required to be held under regulations  
539       promulgated under this authority, to use the Valuation Manual adopted by the NAIC  
540       under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments  
541       adopted by the NAIC and in effect on the date as of which the calculation is made, to the  
542       extent applicable.

543 (4) A regulation adopted pursuant to this paragraph shall not apply to cessions to an  
544 assuming insurer that:

545       (A) Meets the conditions set forth in paragraph (6) of subsection (a) of this Code  
546       section;

547       (B) Is certified in this state or, if this state has not adopted provisions substantially  
548       equivalent to Section 2E of the National Association of Insurance Commissioners  
549       Credit for Reinsurance Model Law (#785), certified in a minimum of five other states;  
550       or

551       (C) Maintains at least \$250 million in capital and surplus when determined in  
552       accordance with the NAIC Accounting Practices and Procedures Manual, including all  
553       amendments thereto adopted by the NAIC, excluding the impact of any permitted or  
554       prescribed practices; and is

555                   (i) Licensed in at least 26 states; or

556       (ii) Licensed in at least ten states, and licensed or accredited in a total of at least 35  
557       states.

558 (5) The authority to adopt regulations pursuant to this paragraph does not limit the  
559 Commissioner's general authority to adopt regulations pursuant to paragraph (1) of this  
560 subsection."

## SECTION 2.

562 All laws and parts of laws in conflict with this Act are repealed.